
SUBSTITUTE HOUSE BILL 1998

State of Washington 60th Legislature 2007 Regular Session

By House Committee on Local Government (originally sponsored by Representatives McCoy, B. Sullivan, Strow, Dunshee, Priest, Wood, Springer and Linville)

READ FIRST TIME 02/28/07.

1 AN ACT Relating to growth in rural areas; adding a new section to
2 chapter 36.70A RCW; and creating a new section.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** (1) Population in western Washington is
5 growing and will continue to grow. Models indicate that the central
6 Cascades region can expect a doubling of the population within the next
7 one hundred years.

8 (2) The growth management act has used large lot zoning to
9 discourage residential development of rural and resource lands.
10 However, historical entitlement of smaller lots coupled with rapidly
11 increasing real estate values have led to widespread development of
12 nonurban lots of a variety of sizes, locations, and zoning categories.
13 This problem is exacerbated by recent trends in the timber industry,
14 resulting in ownership changes, accelerated harvesting regimes, and
15 likely conversion of many properties to residential development in the
16 near term. It is reasonable to assume that under a one hundred-year
17 timeframe all nonurban lots are likely to be developed.

18 (3) The increase in nonurban development has disproportionate

1 undesirable impacts to landscape and watershed integrity, environmental
2 functions, economic viability of resource lands, and public costs.

3 (4) Additional approaches to managing rural growth are needed.
4 Success will likely not come from a single strategy; rather, a
5 multifaceted approach is required. Implementation of a region-wide or
6 statewide transfer of development rights program could play a major
7 role in finding a solution.

8 (5) The most important component in building a successful transfer
9 of development rights program is creating adequate receiving area
10 capacity. Accommodating dramatic population growth while meeting
11 resource conservation goals over the next one hundred years will
12 require greatly increasing receiving area capacity. It is a regional
13 goal to direct growth to urban areas, and therefore it is a priority to
14 develop this receiving capacity primarily in urban areas. In addition,
15 the potential for additional receiving areas in appropriate nonurban
16 areas is being explored concurrently.

17 NEW SECTION. **Sec. 2.** A new section is added to chapter 36.70A RCW
18 to read as follows:

19 (1) A county planning under RCW 36.70A.040 that meets the criteria
20 in subsection (2) of this section may designate no more than one rural
21 village in the rural area outside of limited areas of more intensive
22 rural development established pursuant to RCW 36.70A.070(5)(d). For
23 the purposes of this section, "rural village" is defined as a compact,
24 environmentally friendly rural development created using transfer of
25 development rights. Rural villages will be located in the rural area,
26 and shall coexist with traditional rural land uses such as farming and
27 forestry. Rural villages are not urban growth, nor are they lands
28 "characterized by urban growth" for purposes of citing adjacent or
29 nearby lands as new urban growth areas pursuant to RCW 36.70A.110(2).

30 (2) Under this chapter, a county may designate a rural village in
31 the rural area outside of limited areas of more intensive rural
32 development established pursuant to RCW 36.70A.070(5)(d) as follows:

33 (a) Residential Development. The rural village may contain fifty
34 to two hundred dwelling units and may include single-family detached or
35 attached housing, multifamily housing, and accessory dwelling units.
36 The maximum allowable lot size for single-family detached units is
37 seven thousand square feet within a rural village.

1 (b) Nonresidential Development. The rural village may include
2 nonresidential development that is designed to serve the village
3 population and nearby existing and projected rural residents.

4 (c) Development Right Transfers. All rural village nonresidential
5 square footage or dwelling units that exceed base zoning shall require
6 the transfer or purchase of development rights from designated land
7 within the rural area or natural resource lands ("sending areas") as
8 follows:

9 (i) For the purposes of this section, one transferable development
10 right shall be allocated for each unrealized dwelling unit permitted by
11 applicable development regulations, as calculated on a gross basis
12 (allowed density x gross acreage of the property). In determining how
13 these development rights transfer to the rural village, the county may
14 consider local circumstances, but is encouraged to provide incentives
15 to transfer or purchase development rights from existing nonconforming
16 lots and authorize the transfer or purchase of development rights from
17 larger properties that will provide landscape scale conservation
18 benefits consistent with RCW 36.70A.011 and reduce transactions and
19 acquisition costs helping to make the end product more affordable.

20 (ii) At least one-half of the development rights included in a
21 rural village shall be transferred from the rural area, with any
22 remainder coming from resource lands.

23 (iii) Each development right transferred from an existing rural lot
24 nonconforming as to minimum lot size or density shall be given a 0.25
25 development rights bonus when used within a rural village.

26 (d) Conservation Easements. Development rights purchased or
27 transferred from sending area properties shall be extinguished with
28 conservation easements held jointly by a nonprofit organization and the
29 relevant local government. The conservation easement shall permanently
30 restrict development of the property, but shall allow for typical rural
31 land uses, including agriculture and working forestry. A stewardship
32 fund established by endowment, contractually established annual
33 homeowners association fees, or a perpetual resale fee shall be created
34 for the sending area property to ensure capacity for stewardship of
35 conservation easement lands held in fee by the homeowners association
36 of the rural village, and to monitor and enforce the conservation
37 easement for all sending lands by the responsible parties.

1 (e) Siting Criteria. A county shall establish the criteria for
2 siting a rural village in the rural element of its comprehensive plan.
3 The criteria shall be in keeping with local circumstances, RCW
4 36.70A.070(5)(c), and favor sites with limited visual impacts,
5 proximity to existing transportation networks, limited need for service
6 improvements, affordability of housing in the rural village, and
7 appropriate environmental characteristics.

8 (f) Designation. A rural village shall be designated in the rural
9 element of the comprehensive plan. The regulations governing its
10 development, including location of sending areas, shall be included in
11 the county's development regulations. The rural village must comply
12 with all relevant development regulations, including critical areas
13 regulations and transportation concurrency requirements. The county
14 may adopt level of service or concurrency standards to address the
15 consolidation of traffic that will result from a rural village.

16 (g) Boundaries. Clear boundaries shall be delineated for each
17 rural village and shall not be expanded. Boundaries shall be buffered
18 from surrounding land uses by physical barriers (e.g., river or
19 undeveloped bluff) or a swath of permanently conserved land at least
20 two hundred fifty feet wide. Boundary delineations shall maintain and
21 integrate riparian buffers required under previous land use
22 designation, or as required by existing critical areas designation,
23 whichever is greater. A conservation easement restricting development
24 in this buffer shall be held jointly by a nonprofit organization and
25 the relevant local government.

26 (h) Public Services and Public Facilities.

27 (i) Public services and public facilities shall be limited to those
28 necessary to serve the rural village and shall be provided in a manner
29 that does not permit low-density sprawl. For the purposes of this
30 section, "public services and public facilities" shall not include
31 public schools or school facilities.

32 (ii) New or improved infrastructure necessary to serve the rural
33 village shall be provided or applicable impact fees paid. New or
34 improved infrastructure may be provided by the applicant, the county,
35 or by a public-private partnership.

36 (iii) Transportation.

37 (A) Multimodal site planning shall be implemented and may include,

1 but is not limited to, neighborhood circulators; bicycle paths; and
2 park and ride, community vanpool, and carshare parking spaces.

3 (B) A pedestrian or nonmotorized transportation network of trails
4 or walkways should connect residences to services and open space within
5 and adjacent to the rural village. Walkways are pedestrian lanes that
6 provide people with space to travel within the public right-of-way that
7 is separated from roadway vehicles. They also provide places for
8 children to walk, run, skate, ride bikes, and play. These facilities
9 also improve mobility for pedestrians and provide access for all types
10 of pedestrian travel. Walkways should be part of every new and
11 renovated facility and every effort should be made to retrofit streets
12 that currently do not have sidewalks. Walkways may be constructed of
13 asphalt, crushed stone, or other materials if they are properly
14 maintained and accessible as well as firm, stable, and slip-resistant.

15 (C) Road capacity exists to accommodate the projected needs of the
16 village population and it shall meet county standards. Necessary
17 roadway improvements may include safety enhancements, site access
18 projects, signage revisions, and traffic facility flow and management
19 tools.

20 (D) Counties shall develop innovative road standards for rural
21 villages that are compatible with rural character and minimize
22 impervious surfaces and storm water runoff.

23 (E) Rural villages are not to be gated communities. Legal
24 instruments shall be recorded granting to the general public the right
25 to access and utilize the transportation facilities described in
26 (h)(iii)(A) through (D) of this subsection.

27 (iv) Water rights. A community water system shall be appropriately
28 sized to serve the rural village and shall rely on existing water law
29 to obtain adequate water rights. Such water system shall incorporate
30 efficiency and conservation measures designed to reduce water usage.

31 (v) Wastewater treatment. Counties are encouraged to authorize
32 innovative techniques for wastewater treatment in rural villages,
33 including, but not limited to, membrane bioreactor systems. Greywater
34 reuse for flushing, irrigation, and other appropriate uses should be
35 authorized.

36 (vi) Storm water management. Counties should authorize innovative
37 techniques for storm water management, including, but not limited to,

1 bioswales and other natural storm water management systems and
2 alternative uses for storm water that encourage water reuse,
3 groundwater infiltration, or both.

4 (i) Open Space. The rural village shall contain community open
5 space. Uses of this open space may include, but are not limited to,
6 community gathering space, village green, park, or rural resource use.
7 A portion of the open space must function as a village green or
8 gathering place able to accommodate the population of the rural
9 village.

10 (j) Green Building. All rural villages shall meet the national
11 association of home builders gold level green building guidelines.
12 Equivalent or more stringent green building standards may be
13 substituted for this requirement (e.g., leadership in energy and
14 environmental design, green globes, or other recognized green building
15 standards).

16 (k) Native Vegetation. Disturbance of some native vegetation is
17 likely unavoidable in the development of rural villages. However,
18 maintaining forest cover and other native vegetation is important to
19 the health of watersheds and the Puget Sound. Thus, to the maximum
20 extent possible, clearing of native vegetation shall be avoided or
21 mitigated.

22 (i) The disturbance of native plants and forest cover on the
23 development site shall be minimized.

24 (ii) Disturbance of the development site shall be mitigated via on-
25 site or off-site restoration or replanting of an area roughly
26 equivalent in size to the cleared area via a fee paid to a qualified
27 government or nonprofit land management organization.

28 (iii) Native plant species for landscaping of nonlawn areas of
29 private residences shall be used. Public rights-of-way, street
30 planting strips, and common areas shall be replanted with a regionally
31 appropriate native plant community and structure.

32 (l) Design Standards. A county shall include in its development
33 regulations design standards to protect the rural character of the
34 area. At a minimum these design standards should address the
35 following:

36 (i) Utilities;

37 (ii) Roadways and transportation;

1 (iii) Visual impacts (e.g., protecting view sheds along roadways,
2 ridgelines, hillsides, etc.); and

3 (iv) Lighting and the preservation of dark skies.

4 (m) Notice on Title. Each county designating a rural village pilot
5 project shall require that all plats, short plats, development permits,
6 and building permits issued for development activities within a rural
7 village demonstration project contain a notice that the subject
8 property is located in a rural area where a variety of traditional
9 rural activities may occur that may generate sights, sounds, and smells
10 associated with farming, forestry, and other traditional rural uses.
11 In addition, the notice for lands within a rural village demonstration
12 project shall advise that services in rural areas are often limited and
13 consist of rural governmental services rather than urban governmental
14 services. The notice shall run with the land.

15 (3) A county may not issue groundwater well permits for any
16 groundwater uses except stock-watering purposes, or agricultural
17 industrial purposes allowed under RCW 90.44.050 on properties from
18 which development rights have been sold or transferred (sending sites).

19 (4) Any county intending to designate a rural village demonstration
20 project shall notify the department. The department shall ensure that
21 a maximum of three demonstration projects may be established under this
22 section. Any county choosing to withdraw a demonstration project shall
23 notify the department and the department may accept an alternate
24 project.

25 (5) The department shall report to the appropriate committees of
26 the legislature annually on the progress of any rural villages
27 established under this section. Additionally, the department shall
28 prepare a final report to be submitted no later than December 1, 2012,
29 on the efficacy of this section in accomplishing the purposes of RCW
30 36.70A.011. In preparing this report, the department shall consult
31 with sending and receiving area landowners, project developers,
32 builders, the county, and any other interested individuals or
33 organizations. The report shall:

34 (a) Review the county adopted policies and regulations to enable
35 rural village demonstration projects for consistency with the goals of
36 section 1 of this act and RCW 36.70A.011;

37 (b) Provide pertinent information on the permitting and development
38 of the rural village demonstration projects;

1 (c) Provide a project-specific analysis for each demonstration
2 project looking at the effect of the rural village on the following:
3 (i) Rural population capacity including the impacts of the
4 transfers from resource lands;
5 (ii) Land disturbance and impervious surfaces;
6 (iii) Water resources and watershed health; and
7 (iv) Wildlife habitat; and
8 (d) Recommend whether additional rural villages should be
9 authorized and, if so, whether changes should be made to this section
10 to foster the purposes of rural villages and rural lands as described
11 in section 1 of this act, RCW 36.70A.011, and 36.70A.070(5).
12 (6) The authority of a county meeting the criteria of subsection
13 (2) of this section to designate a rural village in its development
14 regulations terminates on December 31, 2009, unless a county has
15 notified the department, pursuant to subsection (4) of this section, of
16 its intent to designate a rural village. Any rural village designated
17 under this authority shall be available for the approved uses as long
18 as the rural village is in compliance with the conditions of approval
19 adopted by the county.
20 (7) This section applies to counties that are located within the
21 Puget Sound regional council's planning area.
22 (8) This section is intended to further the purposes of RCW
23 36.70A.070(5)(c), and should in no way be interpreted to alter the
24 requirements therein.

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